

### REMARKS

In light of the above amendatory matter and remarks to follow, reconsideration and allowance of this application are respectfully requested.

The specification has been amended to identify the serial number assigned to the application referenced in paragraph no. 71 of the application as filed. It is submitted that no new matter has been added.

Claims 1-22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Busche et al. (“Busche”) (US 2003/0055707). For the reasons discussed below, applicants respectfully traverse this rejection.

In regard to independent claims 1 and 3, it is submitted that Busche neither discloses nor suggests “providing a wireless receiver to each of a plurality of participants in the market research study, the wireless receiver being adapted to be carried on the person of one of the participants ....” In the office action, the Examiner acknowledges that “Busche does not specifically disclose that the receiver [is] adapted to be carried on the person.” The Examiner, however, asserts that the receiver in Busche is attached to the shopping basket and that the customer carries the shopping basket. The Examiner then concludes that it would have been obvious to one of ordinary skill in the art at the time of the claimed invention “to recognize that the wireless receiver attached to [the] shopping basket is being carried on the person of one of the participants.” (Office Action, page 2, lines 19-23). Contrary to the Examiner’s assertions, attaching a wireless receiver to a shopping basket is significantly different than providing a wireless receiver to a market research study participant. For example, in Busche, the movement of the shopping basket is tracked and, thus, the movement of an individual who has set his/her shopping basket down is not being tracked during such time. On the other hand, a wireless

receiver being carried by a shopper causes all movement in the establishment to be tracked.

Moreover, the Examiner has not provided any reasonable basis as to why the Examiner's proposed modification to Busche would be obvious to one of ordinary skill in the art. Rather, only conclusory statements have been provided.

It is further submitted that Busche neither discloses nor suggests "associating time data with each of the respective ones of the location signals corresponding to a time of reception thereof," as recited in claim 1 and similarly recited in claim 3. In the present invention, and as recited in claims 1 and 3, as amended, the wireless receiver is "operative to receive respective ones of the location signals only when in a vicinity of each of the locations." Thus, a wireless receiver does not receive a location signal when it is not in the vicinity of a transmitter location. Quite differently, however, Busche utilizes GPS or enhanced GPS (EGPS), by providing multiple transmitters throughout the store (see Figure 3) and multiple location signals are received simultaneously by a receiver at vicinities beyond those transmitter locations. Then, in Busche, the precise location of the shopping basket containing the wireless receiver is ascertained using well-known triangulation techniques, by utilizing those multiple location signals. Further, the actual "time of reception" of a location signal is not utilized in Busch in the determination of the location of the portable receiver. Rather, it is the ascertained distances to various transmitters that enables the portable monitor to ascertain its location, in accordance with GPS systems. Therefore, the feature of "associating time data with each of the respective ones of the location signals corresponding to a time of reception thereof," as recited in claim 1 and similarly recited in claim 3, is not disclosed in Busche.

In view of the foregoing, independent claims 1 and 3, as well as claims 2 and 4 dependent thereon, are patentably distinct and unobvious over Busche.

In regard to independent claims 5 and 14, it is submitted, for the reasons previously discussed with respect to claims 1 and 3, that Busche neither discloses nor suggests “providing a portable monitor to each of a plurality of panelists participating in a customer behavior study to be worn thereby,” as recited in claim 5 and similarly recited in claim 14 (Claim 14 recites a “market research study”). Thus, independent claims 5 and 14, as well as claims 6-12 and 15-21 dependent thereon, are patentably distinct and unobvious over Busche.

Moreover, Busche neither discloses nor suggests features recited in applicants’ dependent claims. For instance, Busche does not disclose “gathering data in the portable monitors representing exposure of respective ones of the panelists to media data” as recited in claim 7 and similarly recited in claim 10. In the Office Action, the Examiner asserts that this feature is “met by wireless transmitters 331-338 and basket receivers” of Busche (Office Action, page 4, lines 4-6). It is not understood how Busche’s wireless transmitters (or their output) correspond to applicants’ claimed “media data.” The transmitters in Busche output radio frequency transmissions that can be neither detected nor observed by a panelist. Thus, Busche does not disclose this feature of applicants’ claimed invention.

Dependent claims 8 and 11 call for “gathering outdoor advertising data in the portable monitors representing exposure of respective ones of the panelists to outdoor advertising.” In the Office Action, the Examiner acknowledges that Busche does not disclose this feature, but asserts that it would have been obvious to modify Busche to do so (Office Action, page 4, lines 7-13). In response, it is first submitted that since Busche is silent with respect to activity outside of the retail establishment, there is neither the required suggestion or motivation to make the modification in order to support the Examiner’s position of obviousness. Second, the alleged fact that the portable monitors disclosed in Busche can be utilized in a certain manner (i.e., to

monitor exposure to outdoor advertising) does not mean that the modification would be obvious. Rather, there must be some suggestion or motivation in the prior art to make the modification. Third, Busche actually teaches away from using the disclosed portable monitors outdoors since Busche is directed solely to tracking customer purchasing activity and this reference is completely silent with respect to tracking customer exposure to advertisements whether indoor or outdoor. Thus, there would absolutely no reason to modify Busche so that its portable monitors gather outdoor advertising data “representing exposure of respective ones of the panelists to outdoor advertising.”

Dependent claim 19 calls for “calibrating an inertial monitoring unit within each of the portable monitors ...” The Examiner acknowledges that Busche does not disclose the features recited in claim 19, but asserts that it would have been obvious to modify Busche accordingly. (Office Action, page 4, line 18 to page 5, line 4). It is submitted that there is no support in Busche for the modification since Busche is silent with respect to the potential problems indicated by the Examiner. In particular, Busche does not address the size of the commercial establishment and, further, Busche does not address the problem of power drainage from the portable monitors. Hence, there is no support to modify Busche so that it carries out the steps recited in claim 19 of the present application.

Dependent claim 21 calls for “producing the media data exposure data based on acoustic media data received by the portable monitors.” In the Office Action, the Examiner asserts that it would have been obvious to modify Busche to “employ a known frequency type of device such as acoustic media.” (Office Action, page 5, lines 9-16). Contrary to the Examiner’s assertion, there is neither suggestion nor motivation in Busche to employ “acoustic media data” which means information that is audible, not just any frequency as proposed by the Examiner.


In regard to independent claims 13 and 22, it is submitted, for the reasons previously discussed with respect to claims 1 and 3, that Busche neither discloses nor suggests “each of the second records including a first field representing a consumer participating in a consumer behavior study by carrying a portable monitor ...” Thus, independent claims 13 and 22 are patentably distinct and unobvious over Busche.

In view of the foregoing, it is requested that the rejection of claims 1-22 under 35 U.S.C. § 103 be withdrawn.

New claims 23-35 are presented. Support for independent claims 23 and 30 is set forth in paragraphs 34 and 37 of the application as filed. Support for claims 24 and 31 is set forth in paragraph 37 of the application as filed. Support for claims 25 and 32 is set forth in paragraph 36 of the application as filed. Support for claims 26 and 33 is set forth in paragraph 45 of the application as filed. Support for claims 27 and 34 is set forth in paragraph 40 of the application as filed. Support for claims 28 and 35 is set forth in paragraphs 34 and 40 of the application as filed. Support for claims 29 and 36 is set forth in paragraph 67 and Figure 7 of the application as filed. The allowance of new claims 23-36 is solicited.

In view of the foregoing discussion, reconsideration and allowance of this application are respectfully requested.

Respectfully submitted,

By:   
Mark Montague  
Reg. No. 36,612

COWAN, LIEBOWITZ & LATMAN, P.C  
1133 Avenue of the Americas  
New York, New York 10036-6799  
(212) 790-9200

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